

The conclusion from the documents and the manner in which the hotel business was carried on was that the husband and wife were equal owners of it; and the plaintiffs were entitled to recover one half of \$7,500, unless precluded by the Statute of Limitations.

A married woman may now be a partner: Married Women's Property Act, R.S.O. 1914 ch. 149, sec. 4.

The sale of the hotel business was a sale of property in which the wife had an equal interest with her husband. It included the entire business and assets. The sale, while not formally dissolving the partnership, put an end to the business as carried on by the husband and wife. She had a right to a share of the first payment (\$10,000)—a joint and equal right with her husband. He received the amount; he was liable to account to her for it. But the Limitations Act operated so as to preclude her from bringing an action for a partnership account after 6 years from such receipt. He was not a trustee for her in any sense that would preclude the application of the statute: *Lindley on Partnership*, 7th ed., pp. 551-553; *Knox v. Gye* (1872), L.R. 5 H.L. 656; *Gordon v. Holland* (1913), 82 L.J.P.C. 81; *Betjemann v. Betjemann*, [1895] 2 Ch. 474; and other cases.

Thus the appellants failed in respect of their claim for one half of the \$7,500.

The claim for \$500 said to have been lent by the wife to the husband was established by the evidence of the defendant. The evidence also clearly shewed that \$37.50 interest due to the wife was paid to the husband.

The appeal should be allowed to the extent of \$537.50, and judgment entered for the plaintiffs for that amount with County Court costs and without a set-off. Costs of the appeal to be paid by the defendant.

MULOCK, C.J. Ex., SUTHERLAND and KELLY, JJ., agreed with CLUTE, J.

RIDDELL, J., for reasons stated in writing, agreed that the appeal should be allowed as to \$537.50. He added that the statute did not run in favour of the defendant as to an instalment of the purchase-money not yet paid. A sum of \$5,000 remained unpaid; and, to save further litigation, the Court should now declare that the plaintiffs were entitled to half that sum as and when paid. With that declaration, in addition to the judgment for \$537.50, the appeal should be allowed, and the costs here and below, both on the Supreme Court scale, should be paid by the defendant.

Judgment as stated by CLUTE, J.